

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2279 - SB 2504

February 13, 2018

SUMMARY OF BILL: Authorizes a municipality, county, or the state (an Authority) to develop an application process, fee, and rate structure for installation of small wireless facilities (SWF) on structures used for electric distribution, lighting, traffic control, and signage. Prohibits an Authority from certain practices and establishing certain restrictions relative to SWF.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures - \$423,600/FY18-19/Highway Fund
\$423,600/FY19-20/Highway Fund
\$3,667,900/FY20-21 and Subsequent Years/
Highway Fund**

**Increase Local Revenue – Exceeds \$1,000,000/FY18-19
Exceeds \$1,010,000/FY19-20
Exceeds \$1,020,000/FY20-21
Exceeds \$40,000/FY21-22 and Subsequent Years**

Other Fiscal Impact – A precise increase in local government expenditures for the hiring of additional staff for permit processing cannot reasonably be determined.

In addition, passage of this legislation could place the Department of Transportation out of compliance with federal regulations and could jeopardize federal funding. The amount and timing of federal funding jeopardized is unknown. The Governor's recommended budget document, on page B-321, identifies \$1,013,371,700 in federal funding to the Department.

Assumptions relative to permitting positions:

- Resources suggest that deployment of SWF, utilized for the establishment of 5G networks, will require 10 to 100 times the number of antenna locations currently utilized for 3G and 4G networks.

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- The Department of Transportation (TDOT) has an established permitting and inspection process for utility installations along rights-of-way (ROW).
- In order to process the increased number of permits and inspections required for installation of SWF along ROW, TDOT will require one additional permitting position and one additional inspecting position for each of the four regional offices statewide.
- Additional TDOT employees will result in a recurring increase in state expenditures to the Highway Fund of \$423,596 $\{[(\$41,076 \text{ permit salary} + \$13,741 \text{ benefits}) \times 4 \text{ positions}] + [(\$37,872 \text{ inspection salary} + \$13,210 \text{ benefits}) \times 4 \text{ positions}]\}$.
- Due to multiple unknown factors such as the precise location of such SWF infrastructure deployment, the number of staff currently utilized for permitting in any particular local government, the extent of any additional staff which will be required to process additional permits as a direct result of this legislation, and the extent of any salary and benefits paid, a precise increase in local government expenditures for the hiring of additional positions cannot reasonably be determined.

Assumptions relative to application fees:

- The proposed language authorizes an Authority to charge a maximum application fee of \$100 per SWF for the first five SWF then a maximum of \$50 for each additional SWF; with a maximum of 20 SWF allowable on one application.
- For the deployment of SWF infrastructure, applications are estimated to occur in FY18-19, FY19-20, and FY20-21.
- Applications will be made for colocation of SWF onto all structures used for electric distribution, lighting, traffic control, and signage, including those owned by municipal electric distributors.
- TDOT will not charge an application fee; however local Authorities will charge the maximum rate allowable, which will be applicable to all structures used for electric distribution, lighting, traffic control, and signage, including those owned by municipal electric distributors.
- The assessment and collection of application rates will result in an estimated increase in local revenue exceeding \$1,000,000 statewide in each FY18-19, FY19-20, and FY20-21.

Assumptions relative to annual rates:

- An Authority is authorized to charge a maximum annual rate, for colocation of a SWF on utility poles owned by the Authority, excluding those poles utilized for the distribution of electric power, of \$35 per SWF.
- Municipal electric distributors own an estimated 80 percent of structures used for electric distribution, lighting, and traffic control.
- TDOT will not charge an annual rate for colocation; however local Authorities will charge the maximum rate allowable.
- Initial collection of annual rates for colocation of SWF are estimated to begin in FY19-20, increase in FY20-21, and remain constant beginning in FY21-22, upon completion of infrastructure deployment.

- The collection of annual rates will result in an estimated increase in local revenue exceeding \$10,000 in FY19-20, exceeding \$20,000 in FY20-21, and exceeding \$40,000 in FY21-22 and subsequent years statewide.

Assumptions relative to utility relocation:

- Pursuant to Tenn. Code Ann. § 54-5-804, TDOT is authorized to reimburse a utility owner for the relocation of a utility when such utility relocation is required for a highway construction project on a public ROW.
- In 2016, TDOT utility relocation reimbursements totaled \$32,442,640.
- TDOT utilizes a portion of federal funding for utility relocation reimbursement; however any portion of reimbursement over what is allocated from federal funding is paid for with Highway Funds.
- TDOT estimates rates of reimbursement requested by utilities for relocation will increase due to increased costs associated with relocating the addition of SWF on utility poles.
- TDOT estimates a 10 percent increase in reimbursement payments made from the Highway Fund; resulting in a recurring increase in state expenditures from the Highway Fund of \$3,244,264 (\$32,442,640 x 10%).
- It is estimated such reimbursements would not begin until FY20-21.

Assumption relative to federal funding:

- TDOT estimates that certain limits on requirements, policies, and processes may jeopardize the receipt of federal funding.
- The precise amount of federal funding jeopardized would be dependent upon federal ruling and cannot reasonably be determined; however the Governor's recommended budget document, on page B-321, identifies \$1,013,371,700 in federal funding to TDOT.

Assumptions relative to total impacts:

- The total increase in state expenditures from the Highway Fund is \$423,596 in FY18-19 and FY19-20 for additional employees.
- The total recurring increase in state expenditures from the Highway Fund is \$3,667,860 (\$423,596 additional employees + \$3,244,264 utility relocation payments) beginning in FY20-21.
- The total statewide increase in local government revenue is estimated to exceed \$1,000,000 in FY18-19; exceed \$1,010,000 (\$1,000,000 application fees + \$10,000 annual rates) in FY19-20, exceed \$1,020,000 (\$1,000,000 application fees + \$20,000 annual rates) in FY20-21, and exceed \$40,000 in FY21-22 and subsequent years for collection of annual rates.

IMPACT TO COMMERCE:

Increase Business Revenue –

Exceeds \$2,000,000/FY19-20 and Subsequent Years

Increase Business Expenditures –

Exceeds \$2,000,000/FY18-19

Exceeds \$2,010,000/FY19-20

Exceeds \$2,020,000/FY20-21

Exceeds \$40,000/FY21-22 and Subsequent Years

Jobs Impact – Passage of this bill is expected to lead to job creation the extent of which is unknown.

Assumptions relative to business expenditures:

- Private business will experience an increase in business expenditures for application fees estimated to exceed \$1,000,000 in FY18-19, FY19-20, and FY20-21.
- There will be an increase in business expenditures for annual rates paid to Authorities for SWF located on poles owned by Authorities. Payments of annual rates are estimated to begin in FY19-20 at \$10,000, increase in FY20-21 to \$20,000, and remain constant at \$40,000 beginning in FY21-22, upon completion of infrastructure deployment.
- Private business electing to install infrastructure required for SWF will experience an increase in business expenditures. The increase in business expenditures is estimated to exceed \$1,000,000 in each FY18-19, FY19-20, and FY20-21.
- The total increase in business expenditure in FY18-19 is estimated to exceed \$2,000,000 (\$1,000,000 application fees + \$1,000,000 infrastructure deployment).
- The total increase in business expenditures in FY19-20 is estimated to exceed \$2,010,000 (\$1,000,000 application fees + \$10,000 annual rates + \$1,000,000 infrastructure deployment).
- The total increase in business expenditures in FY20-21 is estimated to exceed \$2,020,000 (\$1,000,000 application fees + \$20,000 annual rates + \$1,000,000 infrastructure deployment).
- The total recurring increase in business expenditures in FY21-22 and subsequent years are estimated to exceed \$40,000.

Assumptions relative to business revenue and jobs:

- Any private business investing in infrastructure required for SWF is assumed to have a similar increase in business revenue occurring as a direct result of the infrastructure investment; however the increase in business revenue is estimated to be realized after

such infrastructure has been established. The recurring increase in business revenue is estimated to exceed \$2,000,000 beginning in FY19-20.

- Eight jobs will be added within TDOT as a direct result of this legislation.
- The proposed legislation is estimated to result in a direct increase in the number of jobs in the state. However, any increase in jobs cannot reasonably be determined due to multiple unknown variables such as the number of private businesses who will deploy SWF, the size of any SWF deployment project, the number of additional jobs which will be needed to fulfill such deployment project, if any jobs required will be full-time, or if any jobs needed will be fulfilled with expansion of the hours of current employees of private business.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jrh